

AMENDED IN ASSEMBLY JUNE 26, 2001

AMENDED IN SENATE APRIL 16, 2001

**SENATE BILL**

**No. 485**

**Introduced by Committee on Public Safety (Senators McPherson  
(Chair), Burton, Margett, Polanco, Sher, and Vasconcellos)**

February 22, 2001

An act to repeal Sections 131.3, 131.4, 131.5, 131.6, and 131.7 of the Code of Civil Procedure, to amend Sections 832.6, *1000*, *1203.1b*, 1299.04, 1417.8, 12600, and 12601 of, and to add Sections 1203.7, 1203.71, 1203.72, 1203.73, and 1203.74 to, the Penal Code, to amend Sections 1808, 13353, 13353.1, ~~and 13353.3~~ *13353.3*, ~~and 23249~~ of the Vehicle Code, and to repeal Chapter 1797 of the Statutes of 1963 and Chapter 1032 of the Statutes of 1969, relating to public safety.

LEGISLATIVE COUNSEL'S DIGEST

SB 485, as amended, Committee on Public Safety. Public safety.

(1) Existing law prescribes various duties on probation officers.

This bill would reorganize specified provisions relating to the duties and responsibilities of probation officers.

(2) Under existing law, specified reserve officers have the powers of a peace officer upon compliance with certain conditions that include, among other things, completion of the basic training course for deputy sheriffs and police officers prescribed by the Commission on Peace Officer Standards and Training. Existing law imposes upon the commission specified requirements for implementing this provision. Among these requirements is the development of a supplemental course for existing level I reserve officers desiring to satisfy the basic training course for deputy sheriffs and police officers.

This bill would delete this requirement.

(3) Existing law, the Bail Fugitive Recovery Persons Act, provides for the regulation of individuals authorized to apprehend a bail fugitive, and ~~provides~~ *provides* that they comply with specified requirements, including completing a course of training in the exercise of the power to arrest. Existing law requires that, upon completion of any course or training required, these individuals carry certificates of completion with them at all times in the course of performing their duties.

This bill would require that individuals authorized to apprehend a bail fugitive apply for and obtain registration as a security guard, as specified. This bill would also require that these individuals carry with them at all times the pink temporary copy of registration as a security guard until they have received a fully issued valid security guard card. Because a violation of this provision would be a misdemeanor, this bill would create a new crime, thereby imposing a state-mandated local program.

(4) Existing law provides for the disposition of photographs of minors that are harmful matter, as defined, and that are used in connection with criminal prosecutions, as specified.

This bill would recast those provisions to require the court to direct that disposition of the above described photographs to take place, and would specify that the determination that the material constitutes harmful matter be made by the court.

(5) Existing law authorizes a person who is a peace officer, as defined, to purchase, possess, or transport, under specified conditions, any “less lethal weapon,” as defined, for official use in the discharge of his or her duties. Existing law excludes from the definition of “less lethal weapon” specified semiautomatic firearms that are designated as assault weapons.

This bill would further exclude from the definition of “less lethal weapon” additional firearms that are also designated assault weapons.

(6) Existing law requires that the Department of Motor Vehicles make all specified records relating to the registration of vehicles, other information contained on an application for a driver’s license, abstracts of convictions, and abstracts of accident reports required to be sent to the department in Sacramento, open to public inspection during office hours, except as specified.

This bill would require the department to make available to the courts and law enforcement agencies any conviction of specified vehicle offenses involving alcohol and drugs.



(7) Existing law requires the department to impose various penalties if any person refuses an officer's request to submit to, or fails to complete, a chemical test or tests to determine the alcoholic content of his or her blood, as specified. Existing law enhances the penalty if the person has prior convictions of specified provisions.

This bill would specify that for purposes of these provisions, a conviction of any offense in any state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or Canada, that if committed in this state, would constitute a violation of specified provisions, is a conviction of that particular provision in California.

(8) *Existing law requires the Department of Motor Vehicles to undertake a study and report the findings of that study to the Legislature on or before January 1, 2002, on the effectiveness of specified provisions relating to ignition interlock devices and the devices themselves, and, among other things, their effect on specified vehicle offenses involving driving under the influence of alcoholic beverages or drugs.*

*This bill would revise the studies and reports required on ignition interlock and would require one study and report to be completed on or before July 1, 2002, and another to be completed on or before July 1, 2004.*

(9) Existing law creates a Joint Legislative Committee for the Revision of the Penal Code. Existing law requires the committee to study and appraise existing provisions of the penal laws and procedures and related statutes, and to prepare, for submission to the Governor and the Legislature, a revised, simplified body of substantive and procedural laws relating to crimes.

This bill would eliminate that committee.

~~(9)~~

(10) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 131.3 of the Code of Civil Procedure is  
2 repealed.

3 SEC. 2. Section 131.4 of the Code of Civil Procedure is  
4 repealed.

5 SEC. 3. Section 131.5 of the Code of Civil Procedure is  
6 repealed.

7 SEC. 4. Section 131.6 of the Code of Civil Procedure is  
8 repealed.

9 SEC. 5. Section 131.7 of the Code of Civil Procedure is  
10 repealed.

11 SEC. 6. Section 832.6 of the Penal Code is amended to read:  
12 832.6. (a) Every person deputized or appointed, as described  
13 in subdivision (a) of Section 830.6, shall have the powers of a  
14 peace officer only when the person is any of the following:

15 (1) A level I reserve officer deputized or appointed pursuant to  
16 paragraph (1) or (2) of subdivision (a) or subdivision (b) of Section  
17 830.6 and assigned to the prevention and detection of crime and  
18 the general enforcement of the laws of this state, whether or not  
19 working alone, and the person has completed the basic training  
20 course for deputy sheriffs and police officers prescribed by the  
21 Commission on Peace Officer Standards and Training. For level  
22 I reserve officers appointed prior to January 1, 1997, the basic  
23 training requirement shall be the course that was prescribed at the  
24 time of their appointment. Reserve officers appointed pursuant to  
25 this paragraph shall satisfy the continuing professional training  
26 requirement prescribed by the commission.

27 (2) A level II reserve officer assigned to the prevention and  
28 detection of crime and the general enforcement of the laws of this  
29 state while under the immediate supervision of a peace officer who  
30 has completed the basic training course for deputy sheriffs and  
31 police officers prescribed by the Commission on Peace Officer  
32 Standards and Training, and the level II reserve officer has  
33 completed the course required by Section 832 and any other  
34 training prescribed by the commission.

35 Level II reserve officers appointed pursuant to this paragraph  
36 may be assigned, without immediate supervision, to those limited  
37 duties that are authorized for level III reserve officers pursuant to  
38 paragraph (3). Reserve officers appointed pursuant to this



1 paragraph shall satisfy the continuing professional training  
2 requirement prescribed by the commission.

3 (3) Level III reserve officers may be deployed and are  
4 authorized only to carry out limited support duties not requiring  
5 general law enforcement powers in their routine performance.  
6 Those limited duties shall include traffic control, security at  
7 parades and sporting events, report taking, evidence  
8 transportation, parking enforcement, and other duties that are not  
9 likely to result in physical arrests. Level III reserve officers while  
10 assigned these duties shall be supervised in the accessible vicinity  
11 by a level I reserve officer or a full-time, regular peace officer  
12 employed by a law enforcement agency authorized to have reserve  
13 officers. Level III reserve officers may transport prisoners without  
14 immediate supervision. Those persons shall have completed the  
15 training required under Section 832 and any other training  
16 prescribed by the commission for those persons.

17 (4) A person assigned to the prevention and detection of a  
18 particular crime or crimes or to the detection or apprehension of  
19 a particular individual or individuals while working under the  
20 supervision of a California peace officer in a county adjacent to the  
21 state border who possesses a basic certificate issued by the  
22 Commission on Peace Officer Standards and Training, and the  
23 person is a law enforcement officer who is regularly employed by  
24 a local or state law enforcement agency in an adjoining state and  
25 has completed the basic training required for peace officers in his  
26 or her state.

27 (5) For purposes of this section, a reserve officer who has  
28 previously satisfied the training requirements pursuant to this  
29 section, and has served as a level I or II reserve officer within the  
30 three-year period prior to the date of a new appointment shall be  
31 deemed to remain qualified as to the Commission on Peace Officer  
32 Standards and Training requirements if that reserve officer accepts  
33 a new appointment at the same or lower level with another law  
34 enforcement agency. If the reserve officer has more than a  
35 three-year break in service, he or she shall satisfy current training  
36 requirements.

37 This training shall fully satisfy any other training requirements  
38 required by law, including those specified in Section 832.

39 In no case shall a peace officer of an adjoining state provide  
40 services within a California jurisdiction during any period in

1 which the regular law enforcement agency of the jurisdiction is  
2 involved in a labor dispute.

3 (b) Notwithstanding subdivision (a), a person who is issued a  
4 level I reserve officer certificate before January 1, 1981, shall have  
5 the full powers and duties of a peace officer as provided by Section  
6 830.1 if so designated by local ordinance or, if the local agency is  
7 not authorized to act by ordinance, by resolution, either  
8 individually or by class, if the appointing authority determines the  
9 person is qualified to perform general law enforcement duties by  
10 reason of the person's training and experience. Persons who were  
11 qualified to be issued the level I reserve officer certificate before  
12 January 1, 1981, and who state in writing under penalty of perjury  
13 that they applied for but were not issued the certificate before  
14 January 1, 1981, may be issued the certificate before July 1, 1984.  
15 For purposes of this section, certificates so issued shall be deemed  
16 to have the full force and effect of any level I reserve officer  
17 certificate issued prior to January 1, 1981.

18 (c) In carrying out this section, the commission:

19 (1) May use proficiency testing to satisfy reserve training  
20 standards.

21 (2) Shall provide for convenient training to remote areas in the  
22 state.

23 (3) Shall establish a professional certificate for reserve officers  
24 as defined in paragraph (1) of subdivision (a) and may establish a  
25 professional certificate for reserve officers as defined in  
26 paragraphs (2) and (3) of subdivision (a).

27 (4) Shall facilitate the voluntary transition of reserve officers  
28 to regular officers with no unnecessary redundancy between the  
29 training required for level I and level II reserve officers.

30 (d) In carrying out paragraphs (1) and (3) of subdivision (c), the  
31 commission may establish and levy appropriate fees, provided the  
32 fees do not exceed the cost for administering the respective  
33 services. These fees shall be deposited in the Peace Officers'  
34 Training Fund established by Section 13520.

35 (e) The commission shall include an amount in its annual  
36 budget request to carry out this section.

37 SEC. 7. *Section 1000 of the Penal Code is amended to read:*

38 1000. (a) This chapter shall apply whenever a case is before  
39 any court upon an accusatory pleading for a violation of Section  
40 11350, 11357, 11364, 11365, 11377, or 11550 of the Health and

1 Safety Code, or Section 11358 of the Health and Safety Code if the  
2 marijuana planted, cultivated, harvested, dried, or processed is for  
3 personal use, or Section 11368 of the Health and Safety Code if the  
4 narcotic drug was secured by a fictitious prescription and is for the  
5 personal use of the defendant and was not sold or furnished to  
6 another, or subdivision (d) of Section 653f if the solicitation was  
7 for acts directed to personal use only, or Section 381 or subdivision  
8 (f) of Section 647 of the Penal Code, if for being under the  
9 influence of a controlled substance, or Section ~~4230~~ 4060 of the  
10 Business and Professions Code, and it appears to the prosecuting  
11 attorney that, except as provided in subdivision (b) of Section  
12 11357 of the Health and Safety Code, all of the following apply to  
13 the defendant:

14 (1) The defendant has no conviction for any offense involving  
15 controlled substances prior to the alleged commission of the  
16 charged offense.

17 (2) The offense charged did not involve a crime of violence or  
18 threatened violence.

19 (3) There is no evidence of a violation relating to narcotics or  
20 restricted dangerous drugs other than a violation of the sections  
21 listed in this subdivision.

22 (4) The defendant's record does not indicate that probation or  
23 parole has ever been revoked without thereafter being completed.

24 (5) The defendant's record does not indicate that he or she has  
25 successfully completed or been terminated from diversion or  
26 deferred entry of judgment pursuant to this chapter within five  
27 years prior to the alleged commission of the charged offense.

28 (6) The defendant has no prior felony conviction within five  
29 years prior to the alleged commission of the charged offense.

30 (b) The prosecuting attorney shall review his or her file to  
31 determine whether or not paragraphs (1) to (6), inclusive, of  
32 subdivision (a) apply to the defendant. Upon the agreement of the  
33 prosecuting attorney, law enforcement, the public defender, and  
34 the presiding judge of the criminal division of the municipal court  
35 or of the superior court in a county in which there is no municipal  
36 court, or a judge designated by the presiding judge, this procedure  
37 shall be completed as soon as possible after the initial filing of the  
38 charges. If the defendant is found eligible, the prosecuting attorney  
39 shall file with the court a declaration in writing or state for the  
40 record the grounds upon which the determination is based, and

1 shall make this information available to the defendant and his or  
2 her attorney. This procedure is intended to allow the court to set  
3 the hearing for deferred entry of judgment at the arraignment. If  
4 the defendant is found ineligible for deferred entry of judgment,  
5 the prosecuting attorney shall file with the court a declaration in  
6 writing or state for the record the grounds upon which the  
7 determination is based, and shall make this information available  
8 to the defendant and his or her attorney. The sole remedy of a  
9 defendant who is found ineligible for deferred entry of judgment  
10 is a postconviction appeal.

11 (c) All referrals for deferred entry of judgment granted by the  
12 court pursuant to this chapter shall be made only to programs that  
13 have been certified by the county drug program administrator  
14 pursuant to Chapter 1.5 (commencing with Section 1211) of Title  
15 8, or to programs that provide services at no cost to the participant  
16 and have been deemed by the court and the county drug program  
17 administrator to be credible and effective. The defendant may  
18 request to be referred to a program in any county, as long as that  
19 program meets the criteria set forth in this subdivision.

20 (d) Deferred entry of judgment for a violation of Section 11368  
21 of the Health and Safety Code shall not prohibit any administrative  
22 agency from taking disciplinary action against a licensee or from  
23 denying a license. Nothing in this subdivision shall be construed  
24 to expand or restrict the provisions of Section 1000.4.

25 (e) Any defendant who is participating in a program referred to  
26 in this section may be required to undergo analysis of his or her  
27 urine for the purpose of testing for the presence of any drug as part  
28 of the program. However, urine analysis results shall not be  
29 admissible as a basis for any new criminal prosecution or  
30 proceeding.

31 *SEC. 8. Section 1203.1b of the Penal Code is amended to*  
32 *read:*

33 1203.1b. (a) In any case in which a defendant is convicted of  
34 an offense and is the subject of any preplea or presentence  
35 investigation and report, whether or not probation supervision is  
36 ordered by the court, and in any case in which a defendant is  
37 granted probation or given a conditional sentence, the probation  
38 officer, or his or her authorized representative, taking into account  
39 any amount that the defendant is ordered to pay in fines,  
40 assessments, and restitution, shall make a determination of the

1 ability of the defendant to pay all or a portion of the reasonable cost  
2 of any probation supervision or a conditional sentence, of  
3 conducting any preplea investigation and preparing any preplea  
4 report pursuant to Section ~~431.3~~ 1203.7 of the Code of Civil  
5 Procedure, of conducting any presentence investigation and  
6 preparing any presentence report made pursuant to Section 1203,  
7 and of processing a jurisdictional transfer pursuant to Section  
8 1203.9 or of processing a request for interstate compact  
9 supervision pursuant to Sections 11175 to 11179, inclusive,  
10 whichever applies. The reasonable cost of these services and of  
11 probation supervision or a conditional sentence shall not exceed  
12 the amount determined to be the actual average cost thereof. A  
13 payment schedule for the reimbursement of the costs of preplea or  
14 presentence investigations based on income shall be developed by  
15 the probation department of each county and approved by the  
16 presiding judges of the municipal and superior courts. The court  
17 shall order the defendant to appear before the probation officer, or  
18 his or her authorized representative, to make an inquiry into the  
19 ability of the defendant to pay all or a portion of these costs. The  
20 probation officer, or his or her authorized representative, shall  
21 determine the amount of payment and the manner in which the  
22 payments shall be made to the county, based upon the defendant's  
23 ability to pay. The probation officer shall inform the defendant that  
24 the defendant is entitled to a hearing, that includes the right to  
25 counsel, in which the court shall make a determination of the  
26 defendant's ability to pay and the payment amount. The defendant  
27 must waive the right to a determination by the court of his or her  
28 ability to pay and the payment amount by a knowing and  
29 intelligent waiver.

30 (b) When the defendant fails to waive the right provided in  
31 subdivision (a) to a determination by the court of his or her ability  
32 to pay and the payment amount, the probation officer shall refer  
33 the matter to the court for the scheduling of a hearing to determine  
34 the amount of payment and the manner in which the payments  
35 shall be made. The court shall order the defendant to pay the  
36 reasonable costs if it determines that the defendant has the ability  
37 to pay those costs based on the report of the probation officer, or  
38 his or her authorized representative. The following shall apply to  
39 a hearing conducted pursuant to this subdivision:



1 (1) At the hearing, the defendant shall be entitled to have, but  
2 shall not be limited to, the opportunity to be heard in person, to  
3 present witnesses and other documentary evidence, and to  
4 confront and cross-examine adverse witnesses, and to disclosure  
5 of the evidence against the defendant, and a written statement of  
6 the findings of the court or the probation officer, or his or her  
7 authorized representative.

8 (2) At the hearing, if the court determines that the defendant has  
9 the ability to pay all or part of the costs, the court shall set the  
10 amount to be reimbursed and order the defendant to pay that sum  
11 to the county in the manner in which the court believes reasonable  
12 and compatible with the defendant's financial ability.

13 (3) At the hearing, in making a determination of whether a  
14 defendant has the ability to pay, the court shall take into account  
15 the amount of any fine imposed upon the defendant and any  
16 amount the defendant has been ordered to pay in restitution.

17 (4) When the court determines that the defendant's ability to  
18 pay is different from the determination of the probation officer, the  
19 court shall state on the record the reason for its order.

20 (c) The court may hold additional hearings during the  
21 probationary or conditional sentence period to review the  
22 defendant's financial ability to pay the amount, and in the manner,  
23 as set by the probation officer, or his or her authorized  
24 representative, or as set by the court pursuant to this section.

25 (d) If practicable, the court shall order or the probation officer  
26 shall set payments pursuant to subdivisions (a) and (b) to be made  
27 on a monthly basis. Execution may be issued on the order issued  
28 pursuant to this section in the same manner as a judgment in a civil  
29 action. The order to pay all or part of the costs shall not be enforced  
30 by contempt.

31 (e) The term "ability to pay" means the overall capability of  
32 the defendant to reimburse the costs, or a portion of the costs, of  
33 conducting the presentence investigation, preparing the preplea or  
34 presentence report, processing a jurisdictional transfer pursuant to  
35 Section 1203.9, processing requests for interstate compact  
36 supervision pursuant to Sections 11175 to 11179, inclusive, and  
37 probation supervision or conditional sentence, and shall include,  
38 but shall not be limited to, the defendant's:

39 (1) Present financial position.

(2) Reasonably discernible future financial position. In no event shall the court consider a period of more than one year from the date of the hearing for purposes of determining reasonably discernible future financial position.

(3) Likelihood that the defendant shall be able to obtain employment within the one-year period from the date of the hearing.

(4) Any other factor or factors that may bear upon the defendant's financial capability to reimburse the county for the costs.

(f) At any time during the pendency of the judgment rendered according to the terms of this section, a defendant against whom a judgment has been rendered may petition the probation officer for a review of the defendant's financial ability to pay or the rendering court to modify or vacate its previous judgment on the grounds of a change of circumstances with regard to the defendant's ability to pay the judgment. The probation officer and the court shall advise the defendant of this right at the time of rendering of the terms of probation or the judgment.

(g) All sums paid by a defendant pursuant to this section shall be allocated for the operating expenses of the county probation department.

(h) The board of supervisors in any county, by resolution, may establish a fee for the processing of payments made in installments to the probation department pursuant to this section, not to exceed the administrative and clerical costs of the collection of those installment payments as determined by the board of supervisors, except that the fee shall not exceed fifty dollars (\$50).

(i) This section shall be operative in a county upon the adoption of an ordinance to that effect by the board of supervisors.

*SEC. 9.* Section 1203.7 is added to the Penal Code, to read:

1203.7. Either at the time of the arrest for *a* crime of any person over 16 years of age, or at the time of the plea or verdict of guilty, the probation officer of the county of the jurisdiction of ~~said~~ *the* crime shall, when so directed by the court, inquire into the antecedents, character, history, family environment and offense of that person, and must report the same to the court and file a report in writing in the records of ~~said~~ *the* court. The report shall contain his or her recommendation for or against the release of the person on probation. If that person is released on probation and committed

1 to the care of the probation officer, the officer shall keep a  
2 complete and accurate record in suitable books of the history of the  
3 case in court and of the name of the probation officer, and his or  
4 her acts in connection with the case; also the age, sex, nativity,  
5 residence, education, habits of temperance, whether married or  
6 single, and the conduct, employment and occupation and the  
7 parents' occupation and the condition of the person committed to  
8 his or her care during the term of probation, and the result of  
9 probation, which record shall be and constitute a part of the records  
10 of the court and shall at all times be open to the inspection of the  
11 court or any person appointed by the court for that purpose, as well  
12 as of all magistrates and the chief of police or other head of the  
13 police, unless otherwise ordered by the court. Those books of  
14 record shall be furnished by the county clerk of the county, and  
15 shall be paid for out of the county treasury.

16 Five years after termination of probation in any case subject to  
17 this section, the probation officer may destroy any records and  
18 papers in his or her possession relating to the case.

19 The probation officer shall furnish to each person released on  
20 probation and committed to his or her care, a written statement of  
21 the terms and conditions of probation, and shall report to the court  
22 or judge appointing him or her, any violation or breach of the terms  
23 and conditions imposed by the court on the person placed in his or  
24 her care.

25 ~~SEC. 8.~~

26 *SEC. 10.* Section 1203.71 is added to the Penal Code, to read:

27 1203.71. Any of the duties of the probation officer may be  
28 performed by a deputy probation officer and shall be performed by  
29 him or her whenever detailed to perform those by the probation  
30 officer; and it shall be the duty of the probation officer to see that  
31 the deputy probation officer performs his or her duties.

32 The probation officer and each deputy probation officer shall  
33 have, as to the person so committed to the care of the probation  
34 officer or deputy probation officer, the powers of a peace officer.

35 The probation officers and deputy probation officers shall serve  
36 as such probation officers in all courts having original jurisdiction  
37 of criminal actions in this state.

38 ~~SEC. 9.~~

39 *SEC. 11.* Section 1203.72 is added to the Penal Code, to read:



1203.72. No court shall pronounce judgment upon any defendant, as to whom the court has requested a probation report pursuant to Section ~~131.3~~ 1203.7, unless a copy of the probation report has been made available to the court, the prosecuting attorney, and the defendant or his *or her* attorney, at least two days or, upon the request of the defendant, five days prior to the time fixed by the court for consideration of the report with respect to pronouncement of judgment. The report shall be filed with the clerk of the court as a record in the case at the time the court considers the report.

If the defendant is not represented by an attorney, the court, upon ordering the probation report, shall also order the probation officer who prepares the report to discuss its contents with the defendant.

~~SEC. 10.~~

*SEC. 12.* Section 1203.73 is added to the Penal Code, to read:

1203.73. The probation officers and deputy probation officers in all counties of the state shall be allowed such necessary incidental expenses incurred in the performance of their duties as required by any law of this state, as may be authorized by a judge of the superior court; and the same shall be a charge upon the county in which the court appointing them has jurisdiction and shall be paid out of the county treasury upon a warrant issued therefor by the county auditor upon the order of the court; provided, however, that in counties in which the probation officer is appointed by the board of supervisors, the expenses shall be authorized by the probation officer and claims therefor shall be audited, allowed and paid in the same manner as other county claims.

~~SEC. 11.~~

*SEC. 13.* Section 1203.74 is added to the Penal Code, to read:

1203.74. Upon a determination that, in his or her opinion, staff and financial resources available to him or her are insufficient to meet his or her statutory or court ordered responsibilities, the probation officer shall immediately notify the presiding judge of the superior court and the board of supervisors of the county, or city and county, in writing. The notification shall explain which responsibilities cannot be met and what resources are necessary in order that statutory or court ordered responsibilities can be properly discharged.

~~SEC. 12.~~

*SEC. 14.* Section 1299.04 of the Penal Code is amended to read:

1299.04. (a) A bail fugitive recovery person, a bail agent, bail permittee, or bail solicitor who contracts his or her services to another bail agent or surety as a bail fugitive recovery person for the purposes specified in subdivision (d) of Section 1299.01, and any bail agent, bail permittee, or bail solicitor who obtains licensing after January 1, 2000, and who engages in the arrest of a defendant pursuant to Section 1301 shall comply with the following requirements:

(1) The person shall be at least 18 years of age.

(2) The person shall have completed a 40-hour power of arrest course certified by the Commission on Peace Officer Standards and Training pursuant to Section 832. Completion of the course shall be for educational purposes only and not intended to confer the power of arrest of a peace officer or public officer, or agent of any federal, state, or local government, unless the person is so employed by a governmental agency.

(3) The person shall have completed a minimum of 12 hours of classroom education certified pursuant to Section 1810.7 of the Insurance Code.

(4) The person shall have completed a course of training in the exercise of the power to arrest offered pursuant to Section 7583.7 of the Business and Professions Code, and shall have applied for and obtained registration as a security guard pursuant to Articles 1 to 5, inclusive, (commencing with Section 7580) of Chapter 11.5 of Division 3 of the Business and Professions Code.

(5) The person shall not have been convicted of a felony.

(b) Upon completion of any course or training program required by this section, an individual authorized by Section 1299.02 to apprehend a bail fugitive shall carry certificates of completion with him or her at all times in the course of performing his or her duties under this article, including the pink temporary copy of registration as a security guard, until the person has received a fully issued and valid security guard card, pursuant to Section 7583.11 of the Business and Professions Code.

~~SEC. 13.~~

*SEC. 15.* Section 1417.8 of the Penal Code is amended to read:

1417.8. (a) Notwithstanding any other provision of this chapter, the court shall direct that any photograph of any minor that has been found by the court to be harmful matter, as defined in Section 313, and introduced or filed as an exhibit in any criminal proceeding specified in subdivision (b) be handled as follows:

(1) Prior to the final determination of the action or proceeding, the photograph shall be available only to the parties or to a person named in a court order to receive the photograph.

(2) After the final determination of the action or proceeding, the photograph shall be preserved with the permanent record maintained by the clerk of the court. The photograph may be disposed of or destroyed after preservation through any appropriate photographic or electronic medium. If the photograph is disposed of, it shall be rendered unidentifiable before ~~such~~ *the* disposal. No person shall have access to the photograph unless that person has been named in a court order to receive the photograph. Any copy, negative, reprint, or other duplication of the photograph in the possession of the state, a state agency, the defendant, or an agent of the defendant, shall be delivered to the clerk of the court for disposal whether or not the defendant was convicted of the offense.

(b) The procedure provided by subdivision (a) shall apply to actions listed under subparagraph (A) of paragraph (2) of subdivision (a) of Section 290, and to actions under the following provisions:

(1) Section 261.5.

(2) Section 272.

(3) Chapter 7.5 (commencing with Section 311) of Title 9 of Part 1.

(4) Chapter 7.6 (commencing with Section 313) of Title 9 of Part 1.

(c) For the purposes of this section, “photograph” means any photographic image contained in a digital format or on any chemical, mechanical, magnetic, or electronic medium.

~~SEC. 14.~~

*SEC. 16.* Section 12600 of the Penal Code is amended to read:

12600. A person who is a peace officer or a custodial officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 may if authorized by and under ~~such~~ *the* terms and conditions as are specified by his or her employing agency

1 purchase, possess, or transport any less lethal weapon or  
2 ammunition therefor, for official use in the discharge of his or her  
3 duties.

4 ~~SEC. 15.~~

5 *SEC. 17.* Section 12601 of the Penal Code is amended to read:

6 12601. (a) “Less lethal weapon” means any device that is  
7 designed to or that has been converted to expel or propel less lethal  
8 ammunition by any action, mechanism, or process for the purpose  
9 of incapacitating, immobilizing, or stunning a human being  
10 through the infliction of any less than lethal impairment of  
11 physical condition, function, or senses, including physical pain or  
12 discomfort. It is not necessary that a weapon leave any lasting or  
13 permanent incapacitation, discomfort, pain, or other injury or  
14 disability in order to qualify as a less lethal weapon.

15 (b) Less lethal weapon includes the frame or receiver of any  
16 weapon described in subdivision (a), but does not include any of  
17 the following unless the part or weapon has been converted as  
18 described in subdivision (a):

19 (1) Pistol, revolver, or firearm as defined in Section 12001.

20 (2) Machinegun as defined in Section 12200.

21 (3) Rifle or shotgun using fixed ammunition consisting of  
22 standard primer and powder and not capable of being concealed  
23 upon the person.

24 (4) Pistols, rifles, and shotguns that are firearms having a barrel  
25 less than 0.18 inches in diameter and that are designed to expel a  
26 projectile by any mechanical means or by compressed air or gas.

27 (5) When used as designed or intended by the manufacturer,  
28 any weapon commonly regarded as a toy gun, and that as such is  
29 incapable of inflicting any impairment of physical condition,  
30 function, or senses.

31 (6) A destructive device as defined in Section 12301.

32 (7) A tear gas weapon as defined in Section 12402.

33 (8) A bow or crossbow designed to shoot arrows.

34 (9) A device commonly known as a slingshot.

35 (10) A device designed for the firing of stud cartridges,  
36 explosive rivets, or similar industrial ammunition.

37 (11) A device designed for signaling, illumination, or safety.

38 (12) An assault weapon as defined in Section 12276 or  
39 12276.1.

(c) “Less lethal ammunition” means any ammunition that (1) is designed to be used in any less lethal weapon or any other kind of weapon (including, but not limited to, firearms, pistols, revolvers, shotguns, rifles, and spring, compressed air, and compressed gas weapons) and (2) when used in the less lethal weapon or other weapon is designed to immobilize or incapacitate or stun a human being through the infliction of any less than lethal impairment of physical condition, function, or senses, including physical pain or discomfort.

~~SEC. 16.~~

*SEC. 18.* Section 1808 of the Vehicle Code is amended to read:

1808. (a) Except where a specific provision of law prohibits the disclosure of records or information or provides for confidentiality, all records of the department relating to the registration of vehicles, other information contained on an application for a driver’s license, abstracts of convictions, and abstracts of accident reports required to be sent to the department in Sacramento, except for abstracts of accidents where, in the opinion of a reporting officer, another individual was at fault, shall be open to public inspection during office hours. All abstracts of accident reports shall be available to law enforcement agencies and courts of competent jurisdiction.

(b) The department shall make available or disclose abstracts of convictions and abstracts of accident reports required to be sent to the department in Sacramento, as described in subdivision (a), if the date of the occurrence is not later than the following:

(1) Seven years for any violation designated as two points pursuant to Section 12810.

(2) Three years for accidents and all other violations.

(c) The department shall make available or disclose suspensions and revocations of the driving privilege while the suspension or revocation is in effect and for three years following termination of the action or reinstatement of the privilege, except that drivers license suspension actions taken pursuant to Sections 13202.6 and 13202.7, or Section 256 or 11350.6 of the Welfare and Institutions Code shall be disclosed only during the actual time period in which the suspension is in effect.

1 (d) The department shall not make available or disclose any  
2 suspension or revocation that has been judicially set aside or  
3 stayed.

4 (e) The department shall not make available or disclose  
5 personal information about any person unless the disclosure is in  
6 compliance with the Driver's Privacy Protection Act of 1994 (18  
7 U.S.C. Sec. 2721 et seq.). However, any disclosure is subject to the  
8 prohibition in paragraph (2) of subdivision (a) of Section 12800.5.

9 (f) The department shall make available or disclose to the  
10 courts and law enforcement agencies any conviction of Section  
11 23152, 23153, or Section 191.5 or paragraph (1) or (3) of  
12 subdivision (c) of Section 192 of the Penal Code, punished as a  
13 felony for a period of 10 years from the date of the offense for the  
14 purpose of imposing penalties mandated by Section 23550.5, or by  
15 any other applicable provisions of California law.

16 ~~SEC. 17.~~

17 *SEC. 19.* Section 13353 of the Vehicle Code is amended to  
18 read:

19 13353. (a) If any person refuses the officer's request to  
20 submit to, or fails to complete, a chemical test or tests pursuant to  
21 Section 23612, upon receipt of the officer's sworn statement that  
22 the officer had reasonable cause to believe the person had been  
23 driving a motor vehicle in violation of Section 23140, 23152, or  
24 23153, and that the person had refused to submit to, or did not  
25 complete, the test or tests after being requested by the officer, the  
26 department shall do one of the following:

27 (1) Suspend the person's privilege to operate a motor vehicle  
28 for a period of one year.

29 (2) Revoke the person's privilege to operate a motor vehicle for  
30 a period of two years if the refusal occurred within seven years of  
31 either (A) a separate violation of Section 23103 as specified in  
32 Section 23103.5, or of Section 23140, 23152, or 23153, or of  
33 Section 191.5 or paragraph (3) of subdivision (c) of Section 192  
34 of the Penal Code, that resulted in a conviction, or (B) a suspension  
35 or revocation of the person's privilege to operate a motor vehicle  
36 pursuant to this section or Section 13353.2 for an offense which  
37 occurred on a separate occasion.

38 (3) Revoke the person's privilege to operate a motor vehicle for  
39 a period of three years if the refusal occurred within seven years  
40 of any of the following:

1 (A) Two or more separate violations of Section 23103 as  
2 specified in Section 23103.5, or of Section 23140, 23152, or  
3 23153, or of Section 191.5 or paragraph (3) of subdivision (c) of  
4 Section 192 of the Penal Code, or any combination thereof, which  
5 resulted in convictions.

6 (B) Two or more suspensions or revocations of the person's  
7 privilege to operate a motor vehicle pursuant to this section or  
8 Section 13353.2 for offenses which occurred on separate  
9 occasions.

10 (C) Any combination of two or more of those convictions or  
11 administrative suspensions or revocations.

12 The officer's sworn statement shall be submitted pursuant to  
13 Section 13380 on a form furnished or approved by the department.  
14 The suspension or revocation shall not become effective until 30  
15 days after the giving of written notice thereof, or until the end of  
16 any stay of the suspension or revocation, as provided for in Section  
17 13558.

18 (D) For purposes of this section, a conviction of any offense in  
19 any state, territory, or possession of the United States, the District  
20 of Columbia, the Commonwealth of Puerto Rico, or Canada that,  
21 if committed in this state, would be a violation of Section 23103,  
22 as specified in Section 23103.5, or Section 23140, 23152, or  
23 23153, or Section 191.5 or paragraph (3) of subdivision (c) of  
24 Section 192 of the Penal Code, is a conviction of that particular  
25 section of the Vehicle or Penal Code.

26 (b) The notice of the order of suspension or revocation under  
27 this section shall be served on the person by a peace officer  
28 pursuant to Section 23612. The notice of the order of suspension  
29 or revocation shall be on a form provided by the department. If the  
30 notice of the order of suspension or revocation has not been served  
31 by the peace officer pursuant to Section 23612, the department  
32 immediately shall notify the person in writing of the action taken.  
33 The peace officer who serves the notice, or the department, if  
34 applicable, also shall provide, if the officer or department, as the  
35 case may be, determines that it is necessary to do so, the person  
36 with the appropriate non-English notice developed pursuant to  
37 subdivision (d) of Section 14100.

38 (c) Upon receipt of the officer's sworn statement, the  
39 department shall review the record. For purposes of this section,

1 the scope of the administrative review shall cover all of the  
2 following issues:

3 (1) Whether the peace officer had reasonable cause to believe  
4 the person had been driving a motor vehicle in violation of Section  
5 23140, 23152, or 23153.

6 (2) Whether the person was placed under arrest.

7 (3) Whether the person refused to submit to, or did not  
8 complete, the test or tests after being requested by a peace officer.

9 (4) Whether, except for the persons described in subdivision (a)  
10 of Section 23612 who are incapable of refusing, the person had  
11 been told that his or her driving privilege would be suspended or  
12 revoked if he or she refused to submit to, or did not complete, the  
13 test or tests.

14 (d) The person may request an administrative hearing pursuant  
15 to Section 13558. Except as provided in subdivision (e) of Section  
16 13558, the request for an administrative hearing does not stay the  
17 order of suspension or revocation.

18 ~~SEC. 18.~~

19 *SEC. 20.* Section 13353.1 of the Vehicle Code is amended to  
20 read:

21 13353.1. (a) If any person refuses an officer's request to  
22 submit to, or fails to complete, a preliminary alcohol screening test  
23 pursuant to Section 13388, upon receipt of the officer's sworn  
24 statement, submitted pursuant to Section 13380, that the officer  
25 had reasonable cause to believe the person had been driving a  
26 motor vehicle in violation of Section 23136, and that the person  
27 had refused to submit to, or did not complete, the test after being  
28 requested by the officer, the department shall do one of the  
29 following:

30 (1) Suspend the person's privilege to operate a motor vehicle  
31 for a period of one year.

32 (2) Revoke the person's privilege to operate a motor vehicle for  
33 a period of two years if the refusal occurred within seven years of  
34 either of the following:

35 (A) A separate violation of subdivision (a) of Section 23136,  
36 which resulted in a finding of a violation, or a separate violation,  
37 which resulted in a conviction, of Section 23103, as specified in  
38 Section 23103.5, of Section 23140, 23152, or 23153, of Section  
39 191.5 of the Penal Code, or of paragraph (3) of subdivision (c) of  
40 Section 192 of that code.

1 (B) A suspension or revocation of the person's privilege to  
2 operate a motor vehicle if that action was taken pursuant to this  
3 section or Section 13353 or 13353.2 for an offense that occurred  
4 on a separate occasion.

5 (3) Revoke the person's privilege to operate a motor vehicle for  
6 a period of three years if the refusal occurred within seven years  
7 of any of the following:

8 (A) Two or more separate violations of subdivision (a) of  
9 Section 23136, which resulted in findings of violations, or two or  
10 more separate violations, which resulted in convictions, of Section  
11 23103, as specified in Section 23103.5, of Section 23140, 23152,  
12 or 23153, of Section 191.5 of the Penal Code, or of paragraph (3)  
13 of subdivision (c) of Section 192 of that code, or any combination  
14 thereof.

15 (B) Two or more suspensions or revocations of the person's  
16 privilege to operate a motor vehicle if those actions were taken  
17 pursuant to this section, or Section 13353 or 13353.2, for offenses  
18 that occurred on separate occasions.

19 (C) Any combination of two or more of the convictions or  
20 administrative suspensions or revocations described in  
21 subparagraphs (A) or (B).

22 (b) For purposes of this section, a conviction of any offense in  
23 any state, territory, or possession of the United States, the District  
24 of Columbia, the Commonwealth of Puerto Rico, or Canada that,  
25 if committed in this state, would be a violation of Section 23103,  
26 as specified in Section 23103.5, or Section 23140, 23152, or  
27 23153, or Section 191.5 or paragraph (3) of subdivision (c) of  
28 Section 192 of the Penal Code, is a conviction of that particular  
29 section of the Vehicle or Penal Code.

30 (c) The notice of the order of suspension or revocation under  
31 this section shall be served on the person by the peace officer  
32 pursuant to Section 13388 and shall not become effective until 30  
33 days after the person is served with that notice. The notice of the  
34 order of suspension or revocation shall be on a form provided by  
35 the department. If the notice of the order of suspension or  
36 revocation has not been served by the peace officer pursuant to  
37 Section 13388, the department immediately shall notify the person  
38 in writing of the action taken. The peace officer who serves the  
39 notice, or the department, if applicable, also shall provide, if the  
40 officer or department, as the case may be, determines that it is

1 necessary to do so, the person with the appropriate non-English  
2 notice developed pursuant to subdivision (d) of Section 14100.

3 (d) Upon receipt of the officer's sworn statement, the  
4 department shall review the record. For purposes of this section,  
5 the scope of the administrative review shall cover all of the  
6 following issues:

7 (1) Whether the peace officer had reasonable cause to believe  
8 the person had been driving a motor vehicle in violation of Section  
9 23136.

10 (2) Whether the person was lawfully detained.

11 (3) Whether the person refused to submit to, or did not  
12 complete, the test after being requested to do so by a peace officer.

13 (e) The person may request an administrative hearing pursuant  
14 to Section 13558. Except as provided in subdivision (e) of Section  
15 13558, the request for an administrative hearing does not stay the  
16 order of suspension or revocation.

17 ~~SEC. 19.~~

18 *SEC. 21.* Section 13353.3 of the Vehicle Code is amended to  
19 read:

20 13353.3. (a) An order of suspension of a person's privilege  
21 to operate a motor vehicle pursuant to Section 13353.2 shall  
22 become effective 30 days after the person is served with the notice  
23 pursuant to Section 13388 or 13382, or subdivision (b) of Section  
24 13353.2.

25 (b) The period of suspension of a person's privilege to operate  
26 a motor vehicle under Section 13353.2 is as follows:

27 (1) Except as provided in Section 13353.6, if the person has not  
28 been convicted of a separate violation of Section 23103, as  
29 specified in Section 23103.5, of Section 23140, 23152, or 23153,  
30 of Section 191.5 of the Penal Code, or of paragraph (3) of  
31 subdivision (c) of Section 192 of that code, the person has not been  
32 administratively determined to have refused chemical testing  
33 pursuant to Section 13353 or 13353.1, or the person has not been  
34 administratively determined to have been driving with an  
35 excessive concentration of alcohol pursuant to Section 13353.2 on  
36 a separate occasion, which offense or occurrence occurred within  
37 seven years of the occasion in question, the person's privilege to  
38 operate a motor vehicle shall be suspended for four months.

39 (2) If the person has been convicted of one or more separate  
40 violations of Section 23103, as specified in Section 23103.5,

1 Section 23140, 23152, or 23153, Section 191.5 of the Penal Code,  
2 or paragraph (3) of subdivision (c) of Section 192 of that code, the  
3 person has been administratively determined to have refused  
4 chemical testing pursuant to Section 13353 or 13353.1, or the  
5 person has been administratively determined to have been driving  
6 with an excessive concentration of alcohol pursuant to Section  
7 13353.2 on a separate occasion, which offense or occasion  
8 occurred within seven years of the occasion in question, the  
9 person's privilege to operate a motor vehicle shall be suspended  
10 for one year.

11 (3) Notwithstanding any other provision of law, if a person has  
12 been administratively determined to have been driving in violation  
13 of Section 23136 or to have refused chemical testing pursuant to  
14 Section 13353.1, the period of suspension shall not be for less than  
15 one year.

16 (c) If a person's privilege to operate a motor vehicle is  
17 suspended pursuant to Section 13353.2 and the person is convicted  
18 of a violation of Section 23140, 23152, or 23153, including a  
19 violation described in Section 23620, arising out of the same  
20 occurrence, both the suspension under Section 13353.2 and the  
21 suspension or revocation under Section 13352 shall be imposed,  
22 except that, notwithstanding Section 13354, the periods of  
23 suspension or revocation shall run concurrently, and the total  
24 period of suspension or revocation shall not exceed the longer of  
25 the two suspension or revocation periods. This subdivision shall  
26 not affect a suspension or revocation pursuant to Section 13353 for  
27 refusal to submit to chemical testing or the imposition of  
28 consecutive periods of suspension or revocation pursuant to  
29 Section 13354 for that refusal.

30 (d) For purposes of this section, a conviction of any offense in  
31 any state, territory, or possession of the United States, the District  
32 of Columbia, the Commonwealth of Puerto Rico, or Canada that,  
33 if committed in this state, would be a violation of Section 23103,  
34 as specified in Section 23103.5, or Section 23140, 23152, or  
35 23153, or Section 191.5 of the Penal Code, is a conviction of that  
36 particular section of the Vehicle or Penal Code.

37 ~~SEC. 20.~~

38 *SEC. 22. Section 23249 of the Vehicle Code is amended to*  
39 *read:*

1 23249. The Department of Motor Vehicles shall ~~undertake a~~  
2 ~~study and report the findings of that study to the Legislature on or~~  
3 ~~before January 1, 2002, on all of the following matters:~~

4 ~~(a) The effectiveness of this article in providing a reduction in~~  
5 ~~the recidivism rate of persons convicted of violations of Section~~  
6 ~~23152 or 23153, and the reduction in vehicle accidents attributed~~  
7 ~~to the implementation of this article, as revised by the act that~~  
8 ~~added this section.~~

9 ~~(b) The overall effectiveness of ignition interlock devices in~~  
10 ~~providing a reduction in the recidivism rate of persons convicted~~  
11 ~~of violations of Section 23152 or 23153, and the reduction in~~  
12 ~~vehicle accidents attributable to the use of those devices. conduct~~  
13 ~~two studies to evaluate the effectiveness of ignition interlock in~~  
14 ~~California and shall report the findings to the Legislature, as~~  
15 ~~specified in subdivisions (a) and (b).~~

16 *(a) The department shall conduct a process study of ignition*  
17 *interlock in California and report the findings to the Legislature*  
18 *on or before July 1, 2002. This study shall examine the*  
19 *implementation of ignition interlock by the courts, the department*  
20 *and ignition interlock installers, and report the rate at which*  
21 *courts assign interlock to persons convicted of a violation of*  
22 *Section 14601.2 and the rate at which these persons install these*  
23 *devices.*

24 *(b) The department shall conduct an outcome study of ignition*  
25 *interlock in California and report the findings to the Legislature*  
26 *on or before July 1, 2004. This study shall examine the*  
27 *effectiveness of California's ignition interlock laws in reducing*  
28 *recidivism, moving violation convictions and crashes among*  
29 *drivers, and among drivers applying to the department, and*  
30 *receiving from it, an ignition interlock restricted license.*

31 SEC. 23. Chapter 1797 of the Statutes of 1963 is repealed.

32 ~~SEC. 21.~~

33 SEC. 24. Chapter 1032 of the Statutes of 1969 is repealed.

34 ~~SEC. 22.~~

35 SEC. 25. Any section of any act enacted by the Legislature  
36 during the 2001 calendar year that takes effect on or before January  
37 1, 2002, and that amends, amends and renumbers, adds, repeals  
38 and adds, or repeals any one or more of the sections affected by this  
39 act shall prevail over this act, whether that act is enacted prior to,  
40 or subsequent to, the enactment of this act. The repeal, or repeal

1 and addition, of any article, chapter, part, title, or division of any  
2 code by this act shall not become operative if any section of any  
3 other act that is enacted by the Legislature during the 2001  
4 calendar year and takes effect on or before January 1, 2002,  
5 amends, amends and renumbers, adds, repeals and adds, or repeals  
6 any section contained in that article, chapter, part, title, or division.

7 ~~SEC. 23.~~

8 *SEC. 26.* No reimbursement is required by this act pursuant  
9 to Section 6 of Article XIII B of the California Constitution  
10 because the only costs that may be incurred by a local agency or  
11 school district will be incurred because this act creates a new crime  
12 or infraction, eliminates a crime or infraction, or changes the  
13 penalty for a crime or infraction, within the meaning of Section  
14 17556 of the Government Code, or changes the definition of a  
15 crime within the meaning of Section 6 of Article XIII B of the  
16 California Constitution.

